

COMSCINST <b>12720.2</b>	COG CODE <b>N00E</b>	DATE <b>28 SEP 1983</b>
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**DEPARTMENT OF THE NAVY**  
COMMANDER MILITARY SEALIFT COMMAND  
WASHINGTON NAVY YARD BLDG 210  
901 M STREET SE  
WASHINGTON DC 20398-5540

COMSCINST 12720.2  
M-00E  
28 September 1983

COMSC INSTRUCTION 12720.2

Subj: Military Sealift Command Equal Employment Opportunity (EEO) Program  
Management

- Ref:
- (a) OPNAVINST 12720.2, Equal Employment Opportunity Program Management
  - (b) SECNAVINST 12720.2, Equal Employment Opportunity Objectives in the Merit Pay System
  - (c) SECNAVINST 12720.1A, Department of the Navy (DON) Federal Equal Opportunity Recruitment Program (FEORP)
  - (d) OPNAVINST 12720.1, Implementation of the DON FEORP
  - (e) SECNAVINST 12720.3, Employment of Handicapped Individuals and Disabled Veterans
  - (f) SECNAVINST 12713.12, Department of Navy Affirmative Action Programs and Plans (DON AAPP)
  - (g) SECNAVINST 12410.21, DON Upward Mobility Program (UMP)
  - (h) OPNAVINST 12713.4, Upward Mobility Program
  - (i) SECNAVINST 5300.26, Department of the Navy Policy on Sexual Harassment
  - (j) OPNAVINST 12720.3, Sexual Harassment
  - (k) NCPCINST 12410.1, Implementation of DON Training for Prevention of Sexual Harassment
  - (l) CPI 713-A, Processing Complaints of Discrimination on the Basis of Race, Color, Religion, Sex, National Origin, Age, Physical or Mental Handicap, or Reprisal for Prior EEO Complaint Involvement
  - (m) SECNAVINST 12000.22A, Disposition of Employment Discrimination Complaints and Appeals at the Level of the Navy Department

- Encl:
- (1) Matrix for MSC EEO Program Management - An Organizational Approach
  - (2) Outline of the Discrimination Complaint Process (Navy)
  - (3) Equal Employment Opportunity Commission (EEOC) Sex Discrimination Guidelines - Sexual Harassment

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1. Purpose. To set forth the policy of the Commander, Military Sealift Command (COMSC) toward the principles of equal employment opportunity and to establish an organizational approach for effective management of the EEO Program consistent with law, regulations, and policies established by the Secretary of the Navy.

2. Cancellation. COMSCINST 12713.1D.

3. Applicability. The requirements promulgated in this directive supplement references (a) through (m) and are applicable throughout the Military Sealift Command, including all locations where United States citizens are employed.

4. Background. References (a) through (m) promulgate the Department of the Navy (DON) policies, programs, procedures, and guidance consistent with the laws and regulations governing equal employment opportunity in the federal sector.

a. The overall responsibilities for management of the EEO Program by EEO officials, the requirement that EEO objectives be established by Merit Pay System supervisors and members with significant personnel management authority, and comprehensive guidance for staffing of all EEO Program components are contained in references (a) and (b).

b. The directives and guidance for developing and implementing the Affirmative Employment Programs, including FEORP, AAPPs for minorities, women, and handicapped, and instructions on Upward Mobility Programs, are contained in references (b) through (h).

c. The DON policy statement on sexual harassment and implementing instructions on training in the prevention of sexual harassment are contained in references (I), (j), and (k).

d. Instructions and guidance on the counseling, acceptance, processing, and disposition of allegations of discrimination and reporting requirements associated with complaint processing are promulgated in references (l) and (m).

e. Enclosure (1) is a matrix showing an organizational approach for effective EEO Program management throughout the Command.

f. Enclosure (2) is an outline of the discrimination complaint process for individuals who feel they have been discriminated against because of race, color, sex, national origin, religion, age, or physical or mental handicap.

g. The EEOC's interpretive guidelines on sexual harassment are contained in enclosure (3).

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5. Policy. It is the policy of COMSC that all qualified persons will be assured equal opportunity in matters affecting their employment. The objectives of the total EEO Program are to:

- a. create and maintain a working environment where equal opportunities are a reality;
- b. conduct ongoing efforts to eradicate every form of prejudice or discrimination on the basis of age, race, color, sex, national origin, religion, or nondisqualifying physical or mental handicap;
- c. develop and implement recruitment programs, affirmative action plans, and upward mobility programs as a means of achieving a fully integrated workforce for all occupations, at all levels, and at all activities;
- d. provide for adequate personnel and fiscal resources for all formal EEO Program components, including:
  - (1) Federal Women's Program
  - (2) Hispanic Employment Program
  - (3) Upward Mobility Program
  - (4) Handicapped/Disabled Veterans Program
  - (5) Federal Equal Opportunity Recruitment Program
  - (6) Affirmative Action Program Plans
  - (7) Discrimination Complaint Processing System;
- e. review and evaluate periodically the effectiveness of the Command's overall EEO efforts and accomplishments.

6. Staffing Requirements

- a. The COMSC is the EEO Officer for the Command.
- b. The CO of each MSC command acts as the EEO Officer and is responsible for compliance with federal EEO laws, regulations, and programs.

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c. The CO of a command with 500 or more U.S. citizen civilian employees (COMSCPAC and COMSCLANT) shall appoint a full-time Deputy EEO Officer who shall have direct access to the CO (EEO Officer) regarding EEO Program management and implementation. Additional full-time, part-time, and collateral-duty assignments shall be made to cover adequately all EEO Program components for their areas.

d. MSC commands or activities with fewer than 500 U.S. citizen civilian employees (COMSC Hqtrs., COMSCEUR, and COMSCFE) shall appoint full-time, part-time, and collateral-duty personnel as required to effectively address the objectives of the EEO Program in their respective areas.

e. In accordance with reference (a), all MSC activities should work towards the goal of having full-time or part-time EEO Specialists performing the duties of the Federal Women's Program Manager, Hispanic Employment Program Manager, and Affirmative Employment Program Manager.

## 7. Responsibilities

a. COMSC EEO Officer is responsible for ensuring that the DON EEO policy, affirmative action plans, and program components are promulgated and aggressively implemented throughout the Command.

b. Area Command EEO Officers and all MSC activity heads are responsible for initiating EEO Programs as required by DON and Command policy and directives covering ashore and afloat personnel.

c. Command Deputy EEO Officer is responsible for developing Command-wide EEO policy, programs, and plans; providing guidance to all EEO staff officials and management officials in their respective roles, including EEO implications of policy decisions, and evaluating the effectiveness of the EEO Program throughout the Command.

d. COMSCLANT, COMSCPAC, and Headquarters Deputy EEO Officers are responsible for developing appropriate policies, plans, and initiatives to implement EEO Program components in areas of their jurisdiction consistent with Command policies and plans.

e. Special Emphasis Program Managers and Coordinators shall assist the Deputy EEO Officers in performing duties required to accomplish the program objectives for the groups targeted for FEORP, Affirmative Action Plans, and Upward Mobility Programs..

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f. EEO Counselors are EEO Specialists with counseling duties assigned, or staff members designated by Commanding Officers to perform EEO Counselor's duties on a collateral-duty basis as described in reference (1). A sufficient number of EEO Counselors shall be trained and available to counsel employees and applicants who believe they have been discriminated against because of race, color, religion, sex, national origin, age, or mental or physical handicap. Counselors shall attempt to resolve informally the matters presented to them.

g. EEO Committees may be established at MSC activities of 50 or more employees to function as an advisory body to the Commanding Officer and EEO officials in the development and implementation of the EEO Program. The Committees should be comprised of a cross-section of the workforce, including representation from various organizational units, and members who are minority, non-minority, and female employees.

h. Civilian Personnel Officers and servicing Consolidated Civilian Personnel Officers and staffs are responsible for providing technical input as requested for the EEO Program. This includes such areas as reviewing MSC EEO program and policy documents, and providing input for the preparation of required technical advice on issues resulting from EEO evaluations or organizational units. Personnel staff will be responsible for ensuring that the requirements of the EEO Program are met in actions taken with managers and supervisors involving recruitment, selection, training, placement, promotion, discipline, discharge, and reduction-in-force. They will participate with EEO staff, managers, and supervisors in the development and implementation of upward mobility programs. (CCPO-NW is the Civilian Personnel Office that is primarily responsible for assisting in the development and implementation of EEO Program objectives for Headquarters.)

i. Line management and staff officials shall support fully and contribute effectively to the achievement of DON and MSC EEO objectives and inculcate all employees with the principles and objectives of the Command EEO Program. They shall cooperate fully with EEO Counselors and investigators in attempts to resolve discrimination complaints, both formal and informal, and shall not interfere in any way with employees' right to seek counseling on EEO matters.

8. Action. Commanding Officers will ensure that the requirements of this instruction are developed and implemented throughout their respective areas of authority.

"Signed"

WILLIAM H. ROWDEN

Distribution:  
(See page 6)

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Distribution:

SNDL 41B (MSC Area Commands) (less FE) (50)

41B (MSC Area Commands) (FE only) (10)

41C (MSC Subarea Commands) (5)

41D3 (MSC Offices/Prepositioned Groups)

41J (OICMILDEPTS)

T-100 (Masters, civilian service manned ships)

COMSC Staff

**MATRIX: MSC EQUAL EMPLOYMENT OPPORTUNITY PROGRAM MANAGEMENT - AN ORGANIZATIONAL APPROACH**

Major EEO & Affirmative Action Program Requirements	COMSC & Cos (EEO Officers)	Deputy EEO Officers	Special Emp. Prog. Mgrs. & Coords.	Admin. & Manpower Office	Civ. Pers. Off.	Mgrs. & Supvs.	Comptroller	Office of Counsel	Public Affairs Office
1. Establish, promulgate, and promote equal employment opportunity program for Command.	X	X	X		X				
2. Provide sufficient personnel & fiscal resources to administer EEO Program.	X	X		X	X		X		
3. Assure that principal & Operating Officials with EEO Program responsibilities meet established qualifications.	X	X			X				
4. Conduct ongoing efforts through education & training to eradicate every form of prejudice & discrimination in the workforce by: providing supervisory training, monitoring personnel practices, observing working conditions, correcting & disciplining employees who engage in discriminatory practices, distribution/posting EEO information.	X	X	X		X	X			X
5. Utilize to the fullest extent present skills of employees through upward mobility programs; provide maximum opportunity for training.		X	X		X	X			
6. Communicate EEO Program & employment needs to all sources of job candidates.		X	X		X	X			X
7. Emphasize recruitment for underrepresented minority, female & handicap groups in targeted occupations & grade levels.		X	X		X	X			

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8. Participate in community efforts with schools, universities, public & private groups to improve employment opportunities & community conditions that affect employability.		X	X	X	X	X			X
9. Review & evaluate supervisory performance to ensure continuing & vigorous enforcement of EEO policy, particularly through fulfillment of EEO merit pay objectives.	X	X				X			
10. Provide recognition to employees, supervisors, managers & units demonstrating superior accomplishments in EEO.	X	X			X	X			X
11. (a) Provide for counseling employees & applicants who feel they have been discriminated against; provide for prompt, fair, and impartial consideration & disposition of formal complaints.	X	X	X						
11. (b) Provide for prompt consideration and representation of formal complaints for the Command.								X	
12. Evaluate periodically the effectiveness of the overall program & success in meeting specific objectives at all levels of the Command.		X	X		X	X	X		

**OUTLINE OF THE DISCRIMINATION COMPLAINT PROCESS (NAVY)**

EMPLOYEE PERCEIVES DISCRIMINATION

**30 calendar days to contact counselor**

EMPLOYEE VISITS EEO COUNSELOR

**21 calendar days**

EMPLOYEE AND COUNSELOR HAVE FINAL INTERVIEW

**15 calendar days**

EMPLOYEE FILES FORMAL COMPLAINT

**5 calendar days**

EEO OFFICER ACKNOWLEDGES RECEIPT OF COMPLAINT, decides which issues are accepted, requests investigator

**7 calendar days**

LOCAL FIELD DIVISION OF NCPD APPOINTS INVESTIGATOR

**30 calendar days**

INVESTIGATOR SUBMITS REPORT TO EEOC (C.O.)

**8 calendar days**

EEO MEETS WITH COMPLAINANT TO ATTEMPT INFORMAL RESOLUTION

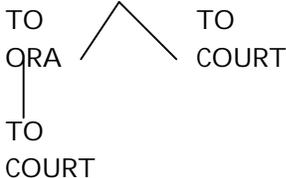
**5 calendar days**

EEO INFORMS COMPLAINANT OF PROPOSED DISPOSITION

**15 calendar days**

**EMPLOYEE'S CHOICES**

A. EMPLOYEE DOES NOT RESPOND WITHIN 15 DAYS. EEO ISSUES FINAL NAVY DECISION ON THE MERITS WITHIN 5 DAYS. EMPLOYEE MAY APPEAL TO EEOC \*ORA WITHIN 20 DAYS OR GO TO COURT WITHIN 30 DAYS.



B. EMPLOYEE ASKS FOR A NAVY DECISION BY THE SEC. OF NAVY WITHOUT A HEARING. EEO SENDS COMPLAINT FILE WITHIN 5 DAYS TO \*\*EARB. SECNAV RENDERS DECISION BASED ON ADMINISTRATIVE FILE.

C. EMPLOYEE ASKS FOR SECNAV DECISION WITH HEARING. WITHIN 5 DAYS, EEO REQUESTS THE EEOC TO APPOINT COMPLAINTS EXAMINER (CX) TO CONDUCT HEARING. CX THEN MAKES RECOMMENDATION TO EARB. SECNAV RENDERS DECISION BASED ON FILE, INCLUDING TRANSCRIPT OF HEARING.

**EMPLOYEE'S CHOICES AFTER SECNAV DECISION**

MAY APPEAL TO EEOC ORA WITHIN 20 CALENDAR DAYS AFTER DECISION IS RECEIVED. LATER MAY GO TO COURT AFTER EEOC ORA DECISION.

MAY GO TO COURT WITHIN 30 DAYS

\*ORA: EEOC Office of Review & Appeals  
\*\*EARB: Navy Employee Appeals Review Board

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**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
29 CFR CHAPTER XIV  
PART 1604 - GUIDELINES  
DISCRIMINATION BECAUSE OF SEX**

1604.11 Sexual Harassment

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII.<sup>1</sup> Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

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(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal<sup>1</sup> responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or request for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

10 November 1980

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<sup>1</sup>The principles involved here continue to apply to race, color, religion, or national origin.